

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**30 WRIT PETITION NO.5637 OF 2022
SUMIT ALIAS NIRAJ DILIP JAISWAL
VERSUS
CHHAYA DILIP JAISWAL AND OTHERS**

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Advocate for Petitioner : Mr. Palod Lalitkumar Bansilal.

CORAM : MANGESH S. PATIL, J.

DATE : 20.06.2022.

PER COURT :

Heard learned advocate Mr. Palod for the petitioner.

2. The petitioner is defendant No. 4 before the trial court. He is aggrieved by the order passed by the trial court during the process of recording of examination in chief of the respondent/plaintiff, directing certain documents to be exhibited for the purpose of identification.

3. The learned advocate Mr. Palod would strenuously submit that the documents which are apparently inadmissible in evidence and are not even public documents have been marked with exhibit numbers by making an observation that those are public documents. He submits that the learned Judge has not clarified that he would subsequently consider the admissibility of the documents. The petitioner is anxious because of the observations made in the order that the documents are public documents in spite of the fact that those are not public documents besides being merely duplicate or copies of the original documents, that too without making out the grounds which would entitle a party to lead secondary evidence.

4. During the course of examination in chief of the respondent/plaintiff, the petitioner had taken objection in respect of admissibility of documents like a copy of ration card, a copy of pass-book and an extract

of school register etc. It was specifically pointed out that these documents were not public documents and the grounds to enable the respondent to lead secondary evidence were also not made out. Still, the learned Judge has directed to mark these documents with exhibit numbers. Pertinently, he has specifically made it clear in the order itself that he was exhibiting the documents only for the purpose of identification. Apparently, no specific order as to the admissibility of these documents in evidence much less regarding proof thereof have been made in the order under challenge.

5. Needless to state that mere exhibition of documents does not dispense with proof. It would be always open for the petitioner to demonstrate as to how these documents are not admissible in evidence and cannot be read in evidence, even during the course of arguments to be advanced while deciding the suit. The petitioner cannot be said to have been put to any prejudice merely because the documents have been marked exhibit numbers for the purpose of identification. It would in fact enable him to refer to these documents during the cross-examination of the respondent to be conducted.

6. It is in view of such state of affairs, when the law is well settled and even the impugned order does not specifically conclude that these documents objected to by the petitioner have been duly proved, it would be improper to prejudge the issue. The petitioner would get every opportunity to assail these documents at the hearing of the arguments.

7. The Writ Petition is dismissed.

(MANGESH S. PATIL, J.)

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